

**506.170 Enhancement of penalty and minimum service of sentence for conviction of criminal gang-related felonies resulting in risk of physical injury, serious physical injury, or death -- Application to juveniles and persistent felony offenders.**

- (1) Other provisions of law notwithstanding, a person shall be penalized one (1) class more severely than provided in the penalty provision pertaining to that felony offense, unless the reclassification would move the offense to a capital offense, and shall not be released on parole until he or she has served at least eighty-five percent (85%) of the sentence imposed, if that person:
  - (a) Is convicted of an offense classified as a felony under any provision of the Kentucky Revised Statutes and for which the commission of the felony or felonies could or did place a member of the public at risk of physical injury, serious physical injury, or death; and
  - (b) At the time of the commission of the offense or offenses was a member of a criminal gang as defined in KRS 506.135 and acting for the purpose of benefitting, promoting, or furthering the interests of a criminal gang or any individual member of a criminal gang.
- (2) This section shall not apply to a juvenile unless:
  - (a) He or she has been transferred to Circuit Court as a youthful offender pursuant to KRS 640.010 and has on at least one (1) prior separate occasion been adjudicated a public offender for a felony offense; or
  - (b) He or she is a violent offender, as defined in KRS 439.3401.
- (3) This section shall not apply in cases where the defendant is found to be a persistent felony offender under KRS 532.080.

**Effective:** April 26, 2018

**History:** Created 2018 Ky. Acts ch. 202, sec. 6, effective April 26, 2018.